

consistent with the required soundness standard; and

(iii) The specific approaches used in the validation of these models;

(4) A description of the approaches used for validating and evaluating the accuracy of internal models and modeling processes for purposes of this subpart;

(5) For each market risk category (that is, interest rate risk, credit spread risk, equity price risk, foreign exchange risk, and commodity price risk), a description of the stress tests applied to the positions subject to the factor;

(6) The results of the comparison of the national bank's or Federal savings association's internal estimates for purposes of this subpart with actual outcomes during a sample period not used in model development;

(7) The soundness standard on which the national bank's or Federal savings association's internal capital adequacy assessment under this subpart is based, including a description of the methodologies used to achieve a capital adequacy assessment that is consistent with the soundness standard;

(8) A description of the national bank's or Federal savings association's processes for monitoring changes in the credit and market risk of

securitization positions, including how those processes differ for resecuritization positions; and

(9) A description of the national bank's or Federal savings association's policy governing the use of credit risk mitigation to mitigate the risks of securitization and resecuritization positions.

§§ 3.213–3.299 [Reserved]

**Subpart G—Transition Provisions**

SOURCE: 78 FR 62157, 62273, Oct. 11, 2013, unless otherwise noted.

**§ 3.300 Transitions.**

(a) *Capital conservation and countercyclical capital buffer.* (1) From January 1, 2014 through December 31, 2015, a national bank or Federal savings association is not subject to limits on distributions and discretionary bonus payments under § 3.11 of subpart B of this part notwithstanding the amount of its capital conservation buffer or any applicable countercyclical capital buffer amount.

(2) Beginning January 1, 2016 through December 31, 2018 a national bank's or Federal savings association's maximum payout ratio shall be determined as set forth in Table 1 to § 3.300.

TABLE 1 TO § 3.300

Transition period	Capital conservation buffer	Maximum payout ratio (as a percentage of eligible retained income)
Calendar year 2016.	Greater than 0.625 percent (plus 25 percent of any applicable countercyclical capital buffer amount).	No payout ratio limitation applies under this section.
	Less than or equal to 0.625 percent (plus 25 percent of any applicable countercyclical capital buffer amount), and greater than 0.469 percent (plus 17.25 percent of any applicable countercyclical capital buffer amount).	60 percent.
	Less than or equal to 0.469 percent (plus 17.25 percent of any applicable countercyclical capital buffer amount), and greater than 0.313 percent (plus 12.5 percent of any applicable countercyclical capital buffer amount).	40 percent.
	Less than or equal to 0.313 percent (plus 12.5 percent of any applicable countercyclical capital buffer amount), and greater than 0.156 percent (plus 6.25 percent of any applicable countercyclical capital buffer amount).	20 percent.
	Less than or equal to 0.156 percent (plus 6.25 percent of any applicable countercyclical capital buffer amount).	0 percent.
Calendar year 2017.	Greater than 1.25 percent (plus 50 percent of any applicable countercyclical capital buffer amount).	No payout ratio limitation applies under this section.
	Less than or equal to 1.25 percent (plus 50 percent of any applicable countercyclical capital buffer amount), and greater than 0.938 percent (plus 37.5 percent of any applicable countercyclical capital buffer amount).	60 percent.
	Less than or equal to 0.938 percent (plus 37.5 percent of any applicable countercyclical capital buffer amount), and greater than 0.625 percent (plus 25 percent of any applicable countercyclical capital buffer amount).	40 percent.

TABLE 1 TO § 3.300—Continued

Transition period	Capital conservation buffer	Maximum payout ratio (as a percentage of eligible retained income)
Calendar year 2018.	Less than or equal to 0.625 percent (plus 25 percent of any applicable countercyclical capital buffer amount), and greater than 0.313 percent (plus 12.5 percent of any applicable countercyclical capital buffer amount).	20 percent.
	Less than or equal to 0.313 percent (plus 12.5 percent of any applicable countercyclical capital buffer amount).	0 percent.
	Greater than 1.875 percent (plus 75 percent of any applicable countercyclical capital buffer amount).	No payout ratio limitation applies under this section.
	Less than or equal to 1.875 percent (plus 75 percent of any applicable countercyclical capital buffer amount), and greater than 1.406 percent (plus 56.25 percent of any applicable countercyclical capital buffer amount).	60 percent.
	Less than or equal to 1.406 percent (plus 56.25 percent of any applicable countercyclical capital buffer amount), and greater than 0.938 percent (plus 37.5 percent of any applicable countercyclical capital buffer amount).	40 percent.
	Less than or equal to 0.938 percent (plus 37.5 percent of any applicable countercyclical capital buffer amount), and greater than 0.469 percent (plus 18.75 percent of any applicable countercyclical capital buffer amount).	20 percent.
	Less than or equal to 0.469 percent (plus 18.75 percent of any applicable countercyclical capital buffer amount).	0 percent.

(b) *Regulatory capital adjustments and deductions.* Beginning January 1, 2014 for an advanced approaches national bank or Federal savings association, and beginning January 1, 2015 for a national bank or Federal savings association that is not an advanced approaches national bank or Federal savings association, and in each case through December 31, 2017, a national bank or Federal savings association must make the capital adjustments and deductions in § 3.22 in accordance with the transition requirements in this paragraph (b). Beginning January 1, 2018, a national bank or Federal savings association must make all regulatory capital adjustments and deductions in accordance with § 3.22.

(1) *Transition deductions from common equity tier 1 capital.* Beginning January 1, 2014 for an advanced approaches national bank or Federal savings association, and beginning January 1, 2015 for a national bank or Federal savings association that is not an advanced approaches national bank or Federal savings association, and in each case through December 31, 2017, a national

bank or Federal savings association, must make the deductions required under § 3.22(a)(1)–(8) from common equity tier 1 or tier 1 capital elements in accordance with the percentages set forth in Table 2 and Table 3 to § 3.300.

(i) A national bank or Federal savings association must deduct the following items from common equity tier 1 and additional tier 1 capital in accordance with the percentages set forth in Table 2 to § 3.300: goodwill (§ 3.22(a)(1)), DTAs that arise from net operating loss and tax credit carryforwards (§ 3.22(a)(3)), a gain-on-sale in connection with a securitization exposure (§ 3.22(a)(4)), defined benefit pension fund assets (§ 3.22(a)(5)), expected credit loss that exceeds eligible credit reserves (for advanced approaches national banks or Federal savings associations that have completed the parallel run process and that have received notifications from the OCC pursuant to § 3.121(d) of subpart E) and financial subsidiaries (§ 3.22(a)(7)), and nonincludable subsidiaries of a Federal savings association (§ 3.22(a)(8)).

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TABLE 2 TO § 3.300

Transition period	Transition deductions under § 3.22(a)(1) and (7)	Transition deductions under § 3.22(a)(3)–(6) and (8)	
	Percentage of the deductions from common equity tier 1 capital	Percentage of the deductions from common equity tier 1 capital	Percentage of the deductions from tier 1 capital
Calendar year 2014 .....	100	20	80
Calendar year 2015 .....	100	40	60
Calendar year 2016 .....	100	60	40
Calendar year 2017 .....	100	80	20
Calendar year 2018, and thereafter .....	100	100	0

(ii) A national bank or Federal savings association must deduct from common equity tier 1 capital any intangible assets other than goodwill and MSAs in accordance with the percentages set forth in Table 3 to § 3.300.

(iii) A national bank or Federal savings association must apply a 100 percent risk-weight to the aggregate amount of intangible assets other than goodwill and MSAs that are not required to be deducted from common equity tier 1 capital under this section.

TABLE 3 TO § 3.300

Transition period	Transition deductions under § 3.22(a)(2)—percentage of the deductions from common equity tier 1 capital
Calendar year 2014 .....	20
Calendar year 2015 .....	40
Calendar year 2016 .....	60
Calendar year 2017 .....	80
Calendar year 2018, and thereafter .....	100

(2) *Transition adjustments to common equity tier 1 capital.* Beginning January 1, 2014 for an advanced approaches national bank or Federal savings association, and beginning January 1, 2015 for a national bank or Federal savings association that is not an advanced approaches national bank or Federal savings association, and in each case through December 31, 2017, a national bank or Federal savings association, must allocate the regulatory adjustments related to changes in the fair value of liabilities due to changes in the national bank's or Federal savings association's own credit risk (§ 3.22(b)(1)(iii)) between common equity tier 1 capital and tier 1 capital in accordance with the percentages set forth in Table 4 to § 3.300.

(i) If the aggregate amount of the adjustment is positive, the national bank or Federal savings association must allocate the deduction between common equity tier 1 and tier 1 capital in accordance with Table 4 to § 3.300.

(ii) If the aggregate amount of the adjustment is negative, the national bank or Federal savings association must add back the adjustment to common equity tier 1 capital or to tier 1 capital, in accordance with Table 4 to § 3.300.

TABLE 4 TO § 3.300

Transition period	Transition adjustments under § 3.22(b)(2)	
	Percentage of the adjustment applied to common equity tier 1 capital	Percentage of the adjustment applied to tier 1 capital
Calendar year 2014 .....	20	80
Calendar year 2015 .....	40	60
Calendar year 2016 .....	60	40
Calendar year 2017 .....	80	20
Calendar year 2018, and thereafter .....	100	0

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(3) *Transition adjustments to AOCI for an advanced approaches national bank or Federal savings association and a national bank or Federal savings association that has not made an AOCI opt-out election under § 3.22(b)(2).* Beginning January 1, 2014 for an advanced approaches national bank or Federal savings association, and beginning January 1, 2015 for a national bank or Federal savings association that is not an advanced approaches national bank or Federal savings association that has not made an AOCI opt-out election under § 3.22(b)(2), and in each case through December 31, 2017, a national bank or Federal savings association must adjust common equity tier 1 capital with respect to the transition AOCI adjustment amount (transition AOCI adjustment amount):

(i) The transition AOCI adjustment amount is the aggregate amount of a national bank's or Federal savings association's:

(A) Unrealized gains on available-for-sale securities that are preferred stock classified as an equity security under GAAP or available-for-sale equity exposures, plus

(B) Net unrealized gains or losses on available-for-sale securities that are not preferred stock classified as an equity security under GAAP or available-for-sale equity exposures, plus

uity security under GAAP or available-for-sale equity exposures, plus

(C) Any amounts recorded in AOCI attributed to defined benefit post-retirement plans resulting from the initial and subsequent application of the relevant GAAP standards that pertain to such plans (excluding, at the national bank's or Federal savings association's option, the portion relating to pension assets deducted under section 22(a)(5)), plus

(D) Accumulated net gains or losses on cash flow hedges related to items that are reported on the balance sheet at fair value included in AOCI, plus

(E) Net unrealized gains or losses on held-to-maturity securities that are included in AOCI.

(ii) A national bank or Federal savings association must make the following adjustment to its common equity tier 1 capital:

(A) If the transition AOCI adjustment amount is positive, the appropriate amount must be deducted from common equity tier 1 capital in accordance with Table 5 to § 3.300.

(B) If the transition AOCI adjustment amount is negative, the appropriate amount must be added back to common equity tier 1 capital in accordance with Table 5 to § 3.300.

TABLE 5 TO § 3.300

Transition period	Percentage of the transition AOCI adjustment amount to be applied to common equity tier 1 capital
Calendar year 2014 .....	80
Calendar year 2015 .....	60
Calendar year 2016 .....	40
Calendar year 2017 .....	20
Calendar year 2018 and thereafter .....	0

(iii) A national bank or Federal savings association may include in tier 2 capital the percentage of unrealized gains on available-for-sale preferred

stock classified as an equity security under GAAP and available-for-sale equity exposures as set forth in Table 6 to § 3.300.

TABLE 6 TO § 3.300

Transition period	Percentage of unrealized gains on available-for-sale preferred stock classified as an equity security under GAAP and available-for-sale equity exposures that may be included in tier 2 capital
Calendar year 2014 .....	36
Calendar year 2015 .....	27
Calendar year 2016 .....	18
Calendar year 2017 .....	9

TABLE 6 TO § 3.300—Continued

Transition period	Percentage of unrealized gains on available-for-sale preferred stock classified as an equity security under GAAP and available-for-sale equity exposures that may be included in tier 2 capital
Calendar year 2018 and thereafter .....	0

(4) *Additional transition deductions from regulatory capital.* (i) Beginning January 1, 2014 for an advanced approaches national bank or Federal savings association, and beginning January 1, 2015 for a national bank or Federal savings association that is not an advanced approaches national bank or Federal savings association, and in each case through December 31, 2017, a national bank or Federal savings association, must use Table 7 to § 3.300 to determine the amount of investments in capital instruments and the items subject to the 10 and 15 percent common equity tier 1 capital deduction thresholds (§ 3.22(d)) (that is, MSAs, DTAs arising from temporary differences that the national bank or Federal savings association could not realize through net operating loss carrybacks, and significant investments in the capital of unconsolidated financial institutions in the form of common stock) that must be deducted from common equity tier 1 capital.

(ii) Beginning January 1, 2014 for an advanced approaches national bank or Federal savings association, and beginning January 1, 2015 for a national bank or Federal savings association that is not an advanced approaches national bank or Federal savings association, and in each case through December 31, 2017, a national bank or Federal savings association must apply a 100 percent risk-weight to the aggregate amount of the items subject to the 10 and 15 percent common equity tier 1 capital deduction thresholds that are not deducted under this section. As set forth in § 3.22(d)(2), beginning January 1, 2018, a national bank or Federal savings association must apply a 250 percent risk-weight to the aggregate amount of the items subject to the 10 and 15 percent common equity tier 1 capital deduction thresholds that are not deducted from common equity tier 1 capital.

TABLE 7 TO § 3.300

Transition period	Transitions for deductions under § 3.22(c) and (d)—Percentage of additional deductions from regulatory capital
Calendar year 2014 .....	20
Calendar year 2015 .....	40
Calendar year 2016 .....	60
Calendar year 2017 .....	80
Calendar year 2018 and thereafter .....	100

(iii) For purposes of calculating the transition deductions in this paragraph (b)(4) beginning January 1, 2014 for an advanced approaches national bank or Federal savings association, and beginning January 1, 2015 for a national bank or Federal savings association that is not an advanced approaches national bank or Federal savings association, and in each case through December 31, 2017, a national bank's or Federal savings association's 15 percent

common equity tier 1 capital deduction threshold for MSAs, DTAs arising from temporary differences that the national bank or Federal savings association could not realize through net operating loss carrybacks, and significant investments in the capital of unconsolidated financial institutions in the form of common stock is equal to 15 percent of the sum of the national bank's or Federal savings association's common equity tier 1 elements, after

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regulatory adjustments and deductions required under § 3.22(a) through (c) (transition 15 percent common equity tier 1 capital deduction threshold).

(iv) Beginning January 1, 2018, a national bank or Federal savings association must calculate the 15 percent common equity tier 1 capital deduction threshold in accordance with § 3.22(d).

(c) *Non-qualifying capital instruments* (1)—(3) [Reserved]

(4) *Depository institutions.* (i) Beginning on January 1, 2014, a depository institution that is an advanced approaches national bank or Federal savings association, and beginning on January 1, 2015, all other depository institutions, may include in regulatory capital debt or equity instruments issued prior to September 12, 2010 that do not meet the criteria for additional tier 1

or tier 2 capital instruments in § 3.20 but that were included in tier 1 or tier 2 capital respectively as of September 12, 2010 (non-qualifying capital instruments issued prior to September 12, 2010) up to the percentage of the outstanding principal amount of such non-qualifying capital instruments as of January 1, 2014 in accordance with Table 9 to § 3.300.

(ii) Table 9 to § 3.300 applies separately to tier 1 and tier 2 non-qualifying capital instruments.

(iii) The amount of non-qualifying capital instruments that cannot be included in additional tier 1 capital under this section may be included in tier 2 capital without limitation, provided that the instruments meet the criteria for tier 2 capital instruments under § 3.20(d).

TABLE 9 TO § 3.300

Transition period (calendar year)	Percentage of non-qualifying capital instruments includable in additional tier 1 or tier 2 capital
Calendar year 2014 .....	80
Calendar year 2015 .....	70
Calendar year 2016 .....	60
Calendar year 2017 .....	50
Calendar year 2018 .....	40
Calendar year 2019 .....	30
Calendar year 2020 .....	20
Calendar year 2021 .....	10
Calendar year 2022 and thereafter .....	0

(d) *Minority interest*—(1) *Surplus minority interest.* Beginning January 1, 2014 for an advanced approaches national bank or Federal savings association, and beginning January 1, 2015 for a national bank or Federal savings association that is not an advanced approaches national bank or Federal savings association, and in each case through December 31, 2017, a national bank or Federal savings association may include in common equity tier 1 capital, tier 1 capital, or total capital the percentage of the common equity tier 1 minority interest, tier 1 minority interest and total capital minority interest outstanding as of January 1, 2014 that exceeds any common equity tier 1 minority interest, tier 1 minority interest or total capital minority interest includable under § 3.21 (surplus mi-

nority interest), respectively, as set forth in Table 10 to § 3.300.

(2) *Non-qualifying minority interest.* Beginning January 1, 2014 for an advanced approaches national bank or Federal savings association, and beginning January 1, 2015 for a national bank or Federal savings association that is not an advanced approaches national bank or Federal savings association, and in each case through December 31, 2017, a national bank or Federal savings association may include in tier 1 capital or total capital the percentage of the tier 1 minority interest and total capital minority interest outstanding as of January 1, 2014 that does not meet the criteria for additional tier 1 or tier 2 capital instruments in § 3.20 (non-qualifying minority interest), as set forth in Table 10 to § 3.300.

TABLE 10 TO § 3.300

Transition period	Percentage of the amount of surplus or non-qualifying minority interest that can be included in regulatory capital during the transition period
Calendar year 2014 .....	80
Calendar year 2015 .....	60
Calendar year 2016 .....	40
Calendar year 2017 .....	20
Calendar year 2018 and thereafter .....	0

(e) *Prompt corrective action.* For purposes of 12 CFR part 6, a national bank or Federal savings association must calculate its capital measures and tangible equity ratio in accordance with the transition provisions in this section.

#### Subpart H—Establishment of Minimum Capital Ratios for an Individual Bank or Individual Federal Savings Association

SOURCE: 78 FR 62269, Oct. 11, 2013, unless otherwise noted.

##### § 3.401 Purpose and scope.

The rules and procedures specified in this subpart are applicable to a proceeding to establish required minimum capital ratios that would otherwise be applicable to a national bank or Federal savings association under subpart B of this part. The OCC is authorized under 12 U.S.C. 1464(s)(2) and 3907(a)(2) to establish such minimum capital requirements for a national bank or Federal savings association as the OCC, in its discretion, deems appropriate in light of the particular circumstances at that national bank or Federal savings association. Proceedings under this subpart also may be initiated to require a national bank or Federal savings association having capital ratios above those set forth in subpart B of this part, or other legal authority to continue to maintain those higher ratios.

##### § 3.402 Applicability.

The OCC may require higher minimum capital ratios for an individual national bank or Federal savings association in view of its circumstances. For example, higher capital ratios may be appropriate for:

(a) A newly chartered national bank or Federal savings association;

(b) A national bank or Federal savings association receiving special supervisory attention;

(c) A national bank or Federal savings association that has, or is expected to have, losses resulting in capital inadequacy;

(d) A national bank or Federal savings association with significant exposure due to the risks from concentrations of credit, certain risks arising from nontraditional activities, or management's overall inability to monitor and control financial and operating risks presented by concentrations of credit and nontraditional activities;

(e) A national bank or Federal savings association with significant exposure to declines in the economic value of its capital due to changes in interest rates;

(f) A national bank or Federal savings association with significant exposure due to fiduciary or operational risk;

(g) A national bank or Federal savings association exposed to a high degree of asset depreciation, or a low level of liquid assets in relation to short term liabilities;

(h) A national bank or Federal savings association exposed to a high volume of, or particularly severe, problem loans;

(i) A national bank or Federal savings association that is growing rapidly, either internally or through acquisitions; or

(j) A national bank or Federal savings association that may be adversely affected by the activities or condition of its holding company, affiliate(s), or other persons or institutions, including chain banking organizations, with which it has significant business relationships.